IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3122 OF 1998

Hamesh Vinodkumar Shah. ...Applicant
V/s.
Shri Rajendra D. Mehta & Anr. ...Respondents

Mr.Pawaskar holding for Mr.S.M. Gorwadkar for Applicant.
Mr.S.S. Tatkare, APP for State.

CORAM : V.M. KANADE, J.

DATED : JANUARY 10, 2006

P.C. :-

. Heard learned Advocate for the applicant/petitioner. None appears for the respondents though they are served.

. The applicant is aggrieved by the order passed by the JMFC Court, Pune, dated 6th October, 1998 whereby he has refused to permit the petitioner to lead evidence through his power of attorney. The application was preferred by the petitioner that he be permitted to lead evidence through his Power of Attorney on account of his physical disability. This application has been rejected.

2. I have perused the order passed by the trial Court. It can be seen from the application which is

filed by the petitioner in the trial Court that the complainant had undergone three open heart surgeries since 1977 and had also suffered paralytic stroke which has impaired his speech. Considering the peculiar facts, in my view, there is no reason why his application for giving evidence through his Power of Attorney should be rejected.

. In the result, the order passed by the JMFC dated 6th October, 1998 is set aside and the petitioner is permitted to lead the evidence through the Power of Attorney. The question regarding the authenticity of the evidence and personal knowledge of the Power of Attorney in respect of the facts which are stated in the evidence will be considered at the time of final hearing by the JMFC.

. With this direction, Criminal Application allowed. The trial Court is directed to decide the complaint of the petitioner, as expeditiously as possible and within a period of six months from the date of receipt of this order.

(V.M. KANADE, J.)